

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS
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T-D

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/341,543	02/17/00	RADIGON	E ATOCM-151

IM52/0116

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EXAMINER
SZEKELY, P

ART UNIT	PAPER NUMBER
1714	11

DATE MAILED: 01/16/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Appl
No.

Examiner

Peter

Ligan et al.
Group Art Unit
714

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE
OF THIS COMMUNICATION.

—The MAILING DATE of this communication appears on the cover sheet

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed LILING DATE from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered NTHS.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

Responsive to communication(s) filed on 10/10/00

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) _____ is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) _____ is/are rejected.

Claim(s) _____ is/are objected to.

Claim(s) _____ are subject to restriction or election requirement.

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Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on _____ is approved disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received:

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Notice of Reference(s) Cited, PTO-892

Notice of Draftsperson's Patent Drawing Review, PTO-948

Interview Summary, PTO-413

Notice of Informal Patent Application, PTO-152

Other _____

Office Action Summary

Part of Paper No. 11

*U.S. GPO: 1998-454-457/975

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DETAILED ACTION

1. In the first office action the independent claim was rejected because it contained two inventions. Applicants in their response, separated the two inventions. At this point, the examiner has decided to impose a restriction requirement.

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-17, drawn to a composition, classified in class 524, subclass 272.

II. Claims 18-21, drawn to an article, classified in class 428, subclass 355 AC.

3. The inventions are distinct, each from the other because :

3. Claim link(s) inventions and . The restriction requirement the linked inventions is subject to the nonallowance of the linking claim(s), claims 18-21. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

*P.S.
1/12/01*

4. Inventions I and ~~J~~ are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate

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product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as a raw material for extruded sheeting and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. A telephone call was made ^{on} ~~to~~ 11/16/00 ^{to} ~~on~~ I. William Millen to request an oral election to the above restriction requirement, but did not result in an election being made.

7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143). P.S.
1/12/01

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any

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amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (703) 308-2460. The examiner can normally be reached on Tuesday-Friday from 7:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599 or 5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Szekely/dh

January 10, 2001

PETER A. SZEKELY
PRIMARY EXAMINER
GROUP 1600